

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

CLAYTON LANDON BARNET, #1525970

V.

SHELY BALDWIN, ET AL.

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CIVIL ACTION NO. 6:17cv607

ORDER OF DISMISSAL

Plaintiff Clayton Landon Barnett, an inmate confined at the Skyview Unit of the Texas prison system, proceeding *pro se*, filed the above-styled and numbered civil rights lawsuit pursuant to 42 U.S.C. § 1983. The complaint was referred to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation (Docket No. 9) concluding that the lawsuit should be dismissed. Plaintiff filed objections (Docket No. 11).

Plaintiff filed an original complaint on October 18, 2017. He submitted an application to proceed *in forma pauperis*, but he did not include an *in forma pauperis* data sheet. On October 25, 2017, the Court issued a deficiency order. Plaintiff was given thirty days from the receipt of the order to submit an application to proceed *in forma pauperis*, together with an *in forma pauperis* data sheet certified by one of the officers in the law library. He was warned that the lawsuit may be dismissed if he failed to timely comply with the order.

By December 5, 2017, Plaintiff had not complied with the deficiency order; thus, the Report and Recommendation was issued to dismiss the case for want of prosecution and failure to obey an order. In his objections, Plaintiff correctly notes that he filed an application to proceed

in forma pauperis, but he did not attach an *in forma pauperis* data sheet. In response to the objections, the Court gave him an additional thirty days to submit an *in forma pauperis* data sheet. The Court has received an acknowledgment from Plaintiff indicating that he received the order giving him additional time on December 22, 2017. As of today, however, he still has not submitted an *in forma pauperis* data sheet or equivalent. As a result, the Court is of the opinion that the case should be dismissed for want of prosecution and failure to obey an order.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Plaintiff's objections are overruled, and the findings and conclusions of the Magistrate Judge are **ADOPTED** as the findings and conclusions of the Court. It is accordingly

ORDERED that the complaint is **DISMISSED** without prejudice for want of prosecution and failure to obey an order. FED. R. CIV. P. 41(b). All motions not previously ruled on are **DENIED**.

SIGNED this 31st day of January, 2018.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE